

TAB 3



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**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF PALMETTO, FLORIDA**

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED
REGULAR MAIL**

CITY OF PALMETTO

A political subdivision of the
State of Florida

Petitioner,

vs.

Case No. CEB 09-01

Wayne T. Jordan
Denise C. Jordan
1704 14th Street Court West
Palmetto, Florida 34221
Respondent

Re Violation Location: 1704 14th Street Court West
Palmetto, Florida 34221

Legal Description: LOT 41 LAMP POST PLACE PH II SUBDIVISION
Township 34S, Range 17E, Section 15.

Parcel ID #: 28000.0320/9

ADMINISTRATIVE ORDER IMPOSING LIEN

THIS MATTER came before the City of Palmetto Code Enforcement Board for Public Hearing on January 27, 2009, at 6:00 p.m., at Palmetto City Hall, after due notice to the Respondent.

FINDINGS OF FACT:

The Code Enforcement Board of the City of Palmetto finds as a matter of fact that:

- The in-ground swimming pool is full of stagnant water and is providing a breeding ground for mosquitoes. The pool presents a serious child safety issue.
- The above noted property contains untended growth of weeds and brush. The property is overgrown.

- The above noted property has garbage and debris strewn in the back yard in addition to a pile of tires by the garage door.

CONCLUSIONS OF LAW:

1. The Code Enforcement Board is properly convened. Notice has been given and all conditions precedent have been satisfied.
2. The Respondent has violated Palmetto Code of Ordinances, Chapter 16, Health and Sanitation, Article II Nuisances, Section 16-26, Section 16-26 (1), (2), & (3), and Section 16-27(a), (b), & (c); Chapter 7, Buildings and Building Regulations, Article XI Minimum Maintenance Standards, Section 7-243(a), Requirements For Sites:

ORDER


The Respondents, Wayne T. Jordan and Denise C. Jordan, are found in violation of the Palmetto Code of Ordinances as noticed, and given until February 6, 2009, to comply with the Palmetto Code of Ordinances by correcting the violation. If the aforementioned action is not taken by February 6, 2009, a fine of up to \$250.00 per day may be imposed for each day the violation continues past the date and time specified herein. The Respondent is entitled to notice and an opportunity to be heard prior to a fine being assessed. **A Public Hearing will be held on February 24, 2009, to determine if the violation has been corrected. Administrative costs incurred by the city in the prosecution of this case in the amount of \$251.00, plus any applicable recording fees, are hereby assessed. Upon recording, such costs shall constitute a lien and shall continue with interest accruing.**

A certified copy of this Administrative Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors-in-interest or assigns if the violation concerns real property and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors-in-interest or assigns.

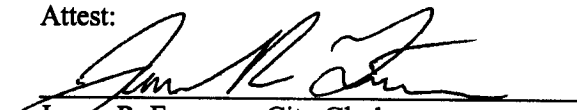
Any aggrieved party may appeal this Administrative Order to the Circuit Court in and for Manatee County. Such appeal shall not be a hearing *de novo*, but shall be limited to appellate review of the record created before the Code Enforcement Board. An appeal shall be filed within thirty (30) days of the execution of this Administrative Order

Done and ordered this 27th day of January, 2009

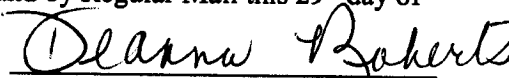
CITY OF PALMETTO
CODE ENFORCEMENT BOARD


Charles W. Leonard, Chairman

Attest:


James R. Freeman, City Clerk

I hereby certify that a true copy of the foregoing Administrative Order Imposing Lien has been furnished to the Respondent by Certified Mail/ Return Receipt Requested and by Regular Mail this 29th day of January, 2009.


Deanna Roberts, Clerk of the Board

Chapter 16

HEALTH AND SANITATION*

- Art. I. In General, §§ 16-1—16-25
- Art. II. Nuisances, §§ 16-26—16-45
 - Div. 1. Generally, §§ 16-26, 16-27
 - Div. 2. Sanitary Nuisances, § 16-28
 - Div. 3. Nuisance Abatement Procedures, §§ 16-29—16-45
- Art. III. Control of Stormwater Discharge, §§ 16-46—16-48

ARTICLE I. IN GENERAL

Sec. 16-1. Reserved.

Editor's note—Formerly, § 16-1 adopted F.S. Ch. 381 as the sanitary code of the city. Inasmuch as reference to such statute is obsolete, the section has been deleted at the request of the city.

Secs. 16-2—16-25. Reserved.

ARTICLE II. NUISANCES†

DIVISION 1. GENERALLY

Sec. 16-26. Definition, enumeration of unlawful conditions or acts.

Every condition, substance or activity within the city which exists or occurs in such manner and to such extent as to threaten or endanger the public health, safety or welfare, or adversely affect and impair the economic welfare of adjacent property, is hereby declared to be a

***Cross references**—Administration, Ch. 2; code enforcement, § 2-81 et seq.; animals, Ch. 6; sanitation regulations for lots, stables, etc., where any livestock or fowl are kept, § 6-29; buildings and building regulations, Ch. 7; coastal areas and waterways, Ch. 10; garbage, trash and refuse, Ch. 15; housing, Ch. 17; junked, wrecked, abandoned property, Ch. 18; mobile homes, Ch. 21; streets, sidewalks and other public places, Ch. 25; utilities, Ch. 29.

State law references—Nuisances injurious to health, F.S. Ch. 386; mosquito control, F.S. Ch. 388.

†Editor's note—Ord. No. 05-843, §§ 2, 3, adopted April 4, 2005, repealed article II, §§ 16-26—16-31, in its entirety and replaced it with a new article II, §§ 16-26—16-33. Former article II pertained to hazardous conditions on land and derived from the Code of 1975, §§ 13-27—13-32; and Ord. No. 659, § 1, adopted Nov. 1, 1999.

Cross references—Housing, Ch. 17; junked, wrecked, abandoned property, Ch. 18; licenses and business regulations, Ch. 19; mobile homes, Ch. 21; planning and development, Ch. 23; streets, sidewalks and other public places, Ch. 25; subdivisions, Ch. 26.

nuisance. Without in any way limiting the foregoing definition, the following conditions, substances and activities are hereby specifically declared to be a nuisance within the intent and meaning of this section:

- (1) Low places upon any lot, tract or parcel of land, improved or unimproved, within one hundred (100) feet of the boundary line of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become a breeding place for mosquitoes, or may reasonably cause disease, or otherwise threatens or endangers the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (2) The accumulation or maintenance of trash, filth, rubbish, garbage, dead animals or fish, improperly treated sewage or other materials in such manner and to the extent as to cause infestation by rodents and other wild animals, the breeding of mosquitoes and vermin, or that threatens or endangers the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (3) The existence of excessive accumulation or untended growth of weeds, undergrowth or other dead or living plant life upon any body of water, lot, tract or parcel of land, improved or unimproved, within one hundred (100) feet of the boundary line of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become infested or inhabited by rodents, vermin or wild animals, or may furnish a breeding place for mosquitoes, or threatens or endangers the public health, safety or welfare, or may reasonably cause disease, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (4) Partition fences, buildings or other structures which have fallen into such a poor state of repair to the extent and in the manner that they may reasonably become infested or inhabited by rodents, vermin or wild animals, or may threaten or endanger the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (5) The unauthorized accumulation or maintenance of lumber, stone, concrete, sand or any other building or construction material on a lot, tract or parcel when construction activity is not actively taking place on the property, in such manner and to the extent as to threaten or endanger the public health, safety or welfare.
- (6) Landscaping or other obstacles located in or protruding into a public right of way so as to create a traffic or pedestrian hazard, or otherwise threaten or endanger the public health, safety and welfare.
- (7) Any foul, offensive or unlawful emissions, odors or stench and the causes thereof which threatens or endangers the public health, safety and welfare, or which is likely to adversely affect and impair the economic welfare of adjacent properties.
- (8) The pollution of any well, water body or drainage system by sewage, dead animals, industrial waste, debris or any other substance so as to threaten or endanger the public health, safety and welfare.

- (9) The partial or total blockage of any drainage inlets, outfalls, pipes, ditches, swales, canals, channels, culverts or streams so as to threaten or endanger the public health, safety and welfare.
- (10) Tampering or interference with any public facilities maintained for the purpose of furnishing sewer, potable water, reclaimed water or telecommunication services to the public, so as to threaten or endanger the public health, safety and welfare.
- (11) Any condition constituting a flood or fire hazard so as to threaten or endanger the public health, safety and welfare.
- (12) Any activity or condition that is declared elsewhere in this Code of Ordinances or other applicable law to be a nuisance.
- (13) Any trees, shrubs, or other landscaping material, or parts thereof, that threaten or endanger the public health, safety or welfare, or adversely affect and impair the economic welfare of adjacent properties, as a result of either of the following conditions:
 - a. A contagious disease or infestation is found on a tree, shrub or other landscaping material; or
 - b. Disease, vines, insects, age or other defect has caused a tree, shrub or other landscaping material, or part thereof, to be unstable such that there exists a reasonable likelihood that it will fall upon any sidewalk, street or building, or result in injury to person or property.
- (14) Any unauthorized disturbance of land where a permit for such activity is required, including but not limited to alteration of the grade or contour of land, or the removal of vegetation from land, that may increase surface water runoff onto neighboring properties or otherwise threaten the public health, safety or welfare.
- (15) Any activity or condition which is manifestly injurious to the morals or manners of the public, as described in F.S. § 823.01.

(Ord. No. 05-843, §§ 2, 3, 4-4-05)

Sec. 16-27. Prohibition and enforcement.

- (a) Nuisances are hereby prohibited. It shall be unlawful for any person to cause such nuisance to come into existence anywhere within the city, or to permit the same to exist on property owned, leased, occupied or otherwise under the control of such person.
- (b) This article may be enforced against any violator, which may include the owner of the premises on which a nuisance exists, or the person or persons generating the nuisance.
- (c) This article shall be enforced as provided for by Florida law, including referral or citation to the city's code enforcement board, issuance of a citation as may be provided for by city ordinance, the entering onto the property and the abatement of the nuisance by the city, or the

filing of an action in a court of competent jurisdiction to obtain civil remedies, including a restraining order, injunction and damages. Any enumeration of enforcement mechanisms set forth herein is supplemental and not exclusive.

(Ord. No. 05-843, §§ 2, 3, 4-4-05; Ord. No. 07-920, § 2, 4-16-07)

DIVISION 2. SANITARY NUISANCES

Sec. 16-28. Sanitary nuisance.

(a) A sanitary nuisance is the commission of any act, by an individual, municipality, organization, or corporation, or the keeping, maintaining, propagation, existence, or permission of anything, by an individual, municipality, organization, or corporation, by which the health or life of an individual, or the health or lives of individuals, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused. Not all nuisances are sanitary nuisances.

(b) Abatement of sanitary nuisances shall occur in the same manner as provided for all other nuisances in division 3 of this article II, except that the city is required to give only ten (10) days' notice to abate the sanitary nuisance or request a hearing.

(Ord. No. 05-843, §§ 2, 3, 4-4-05; Ord. No. 07-920, § 3, 4-16-07)

DIVISION 3. NUISANCE ABATEMENT PROCEDURE*

~~**Sec. 16-29. Notice.**~~

~~(a) If the director of public works, or in his absence or unavailability, his designee, finds and determines that a nuisance exists, he shall so notify the record owner or owners of the property on which the nuisance exists in writing and demand that the owner cause the condition to be remedied. The notice shall be given by registered or certified mail, addressed to the owner or owners of the property described, as their names and addresses are shown upon the record of the county tax assessor, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. If such notice is returned by postal authorities, the director of public works, or his designee, shall cause a copy of the notice to be served by a law enforcement officer upon the owner or owners of the property or upon an occupant of the property that is fifteen (15) years of age or older. If personal service upon the occupant of the property or upon any agent of the owner thereof cannot be performed after reasonable search by a law enforcement officer, the notice shall be accomplished by physical posting on the property, and by publication of the notice in a newspaper of general circulation in the city one (1) time.~~

(b) The notice shall be sufficient if in substantially the following form:

***Editor's note**—Section 4 of Ord. No. 07-920, adopted April 16, 2007, amended §§ 16-29—16-45 in their entirety to read as herein set out under a new Div. 3. Former §§ 16-29—16-33 pertained to similar subject matter and derived from Ord. No. 05-843, adopted April 4, 2005.

officers to ensure continuing compliance with the provisions of this article. In the event a violation of this article is discovered, the code inspector shall give written notice of the violation to the owner of the property who shall have ninety (90) days to correct the violation. Should the violation continue beyond ninety (90) days, the code inspector shall notify the code enforcement board and initiate a hearing under chapter 2, article IV, section 2-81, et seq., of this Code of Ordinances.

(Ord. No. 456, § 1 (10), 7-1-91)

Sec. 7-226. Authority of public works superintendent to create forms, lists and other helps.

The superintendent of the department of public works is authorized to create such forms, lists of suggested trees, accents, shrubs, ground covers and turf grasses, and such other details necessary to carry out the provisions of this article as he deems necessary in his sole discretion. (Ord. No. 456, § 1 (11), 7-1-91)

Secs. 7-227–7-236. Reserved.

ARTICLE XI. MINIMUM MAINTENANCE STANDARDS AND GUIDELINES*

Sec. 7-237. Building front, side and rear walls abutting streets or public areas.

(a) Requirements:

- (1) All deteriorated or damaged structural and decorative elements visible from a public right-of-way, including signage, shall be repaired or replaced to match as closely as possible the existing or original materials and construction of the building, except that changes shall be permitted that are otherwise required or encouraged under this article.
- (2) Every such part of a structure visible from a public right-of-way or abutting a street shall be kept structurally sound. Rotten or weakened portions shall be removed, repaired or replaced in such a manner as to be compatible with the rest of the structure or to match the original materials and construction methods. All exposed wood shall be stained or painted. Every such part shall be free of graffiti, litter, dirt, mildew or other debris. Where surfaces are painted, once painted or normally painted, not more than ten (10) percent of such surface may be without paint. Painted surfaces must be maintained without peeling or chalking.
- (3) Walls shall be repaired and painted to present a neat and clean appearance. Side walls where visible from the street shall be finished or painted in a manner harmonious with the front of the building.

***Editor's note**—Ord. No. 470, adopted Dec. 16, 1991, amended Ch. 7 by adding the provisions set out above but did not provide the exact manner of their inclusion. Therefore, their codification as a new Art. XI, §§ 7-237–7-249 has been at the editor's discretion.

(b) *Roofs, gutters and downspouts.* All roofs and existing gutters and downspouts shall be maintained to prevent damage to the structure and adjoining properties and the public. Leaking roofs shall be repaired or replaced.

(Ord. No. 470, § 4, 12-16-91)

Sec. 7-241. Requirements for trash and receptacle areas.

There shall be no trash placed upon sidewalks or other areas open to the public except on those days when such trash is to be picked up by the city. All private trash receptacle areas shall be screened from the view of the public right-of-way, except where trash receptacle placement is authorized in alleyways. Such areas shall be kept neat and clean in appearance.

(Ord. No. 470, § 5, 12-16-91)

Sec. 7-242. Requirements for auxiliary structures.

(a) *Structures, fences, walls, etc.* Structures at the rear of buildings, whether attached or unattached to the principal commercial structure, which are structurally unsound shall be properly repaired or demolished. All fences, lighting devices and supports, retaining walls, nonstructural walls, outdoor service and seating areas, signs and their supporting elements shall be structurally sound, kept free of overgrowth, trash and debris and shall be repaired and painted to present a neat and clean appearance.

(b) No more than three (3) vending machines, including refrigerated vending or storage machines but not including newsracks, may be located outside any one business premises within the city and shall be placed immediately adjacent to such premises. Vending machines that exceed three (3) in number shall be kept and maintained inside such premises.

(c) All auxiliary and other structures including but not limited to buildings, fences, gates, nonstructural walls, retaining walls, fountains, parking areas, lighting devices and supports, outdoor service and seating areas, signs and their supporting elements, which are out-of-doors and exposed to the general public, shall be kept free of graffiti as defined herein.

(Ord. No. 470, § 6, 12-16-91; Ord. No. 480, § 1, 8-3-92; Ord. No. 578, § 2, 6-16-97)

Sec. 7-243. Requirements for sites.

(a) *Landscaping.* All areas (front, side and rear yards) shall be kept free of overgrowth, weeds, trash and debris. All dead tree limbs and dead trees shall be removed.

(b) *Vacant lots.* Where a vacant lot exists or is created through demolition, the owner must cover all areas not actively used for parking or loading with grass or other such ground cover. Such ground cover shall be maintained and the property kept free of trash and debris.

(c) *Parking lots.* All parking areas shall be constructed as provided in the city zoning code. Parking areas shall be well maintained and kept free of overgrowth, potholes, weeds, trash and debris. Paving and striping will be maintained in good repair and in a neat and clean appearance.